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| 10/539,651 | 06/14/2005 | Nadia Avallé | 1610-114 | 2912 |
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| AKERMAN SENTERFITT P.O. BOX 3188 WEST PALM BEACH, FL 33402-3188 | | | EXAMINER CARLOS, ALVIN LEABRES | |
| | | | ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,651

Applicant(s)

AVALLE, NADIA

Examiner

Alvin L. Carlos

Art Unit

3709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/14/2005.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Figures 8-11 fails to show Pad 4 as mentioned in the disclosure. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6, 8-11 recites the limitation "repeats the stages a) to f) for all the desired colours " in the last line of the claims. There is insufficient antecedent basis for this limitation in the claims.

Art Unit: 3709

4. Claims 6, 8-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what are the "desired colours" the applicant claimed.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Benson 6360658. Benson teaches a pad of yielding material for the transfer of a decorating product onto a cosmetic product surface to be decorated wherein it has a face provided with shapes in relief (column 4 lines 53-60).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-2, 4, 6, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolaus 6199559 in view of Benson 6360658. Nikolaus teaches a

Art Unit: 3709

process for the surface decoration of a cosmetic product comprising filling of a non-shaped cavity with a decorating product (column 3 lines 22-23), shaving of the decorating product input into cavity (column 9 lines 26-28), insertion and slight compression of a face provided with shapes of a pad of yielding material into the decorating product and movement of the pad above the cosmetic product to be decorated (column 1 lines 35-41).

However, Nikolaus fails to teach the following limitations as taught by Benson: positioning and slight compression of the pad onto the surface of the cosmetic product to be decorated in order to leave on it parts of decorating product (column 4 lines 65-67 and column 5 lines 1-10), and removal of the pad from the cosmetic product provided with decorations corresponding to parts of decorating product (column 4 lines 65-67 and column 5 lines 1-10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nikolaus's invention in view of Benson in order to provide a plurality of ink or embossed symbols in an arrangement upon a medium as taught by Benson (column 1 lines 6-8).

Re claim 2, Nikolaus teaches the claimed limitations as discussed above. However, Nikolaus fails to teach the following limitations as taught by Benson: shapes project out of face of the pad in larger measure than the depth of cavity (column 5 lines 15-24 and Figure 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nikolaus's invention in view of Benson in order to provide a plurality

Art Unit: 3709

of ink or embossed symbols in an arrangement upon a medium as taught by Benson (column 1 lines 6-8).

Re claim 4, Nikolaus further teaches a decorating product is made up of a powder or semifluid cosmetic product (column 4 lines 10-14).

Re claims 6, 8 and 10, Nikolaus i.v., Benson teaches the claimed limitations as discussed above. However, Nikolaus i.v., Benson does not recite repeating the steps.

It would have been obvious to one of ordinary skill in the art at the time of the invention to repeat the steps, since reproducing identical steps with the same outcome involves only routine skill in the art. Furthermore, with respect to the desired color, it would have been obvious to use any known color as an obvious matter of design choice as applicant has not provided any criticality for the desired color.

9. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolaus 6199559 in view of Benson 6360658 and further in view of Imamaki 6000335. Nikolaus i.v., Benson teaches the claimed limitations as discussed above.

However, Nikolaus i.v., Benson fails to teach the following limitations as taught by Imamaki: pad is made of silicon resin (column 2 lines 5-6).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nikolaus i.v., Benson invention and further in view of Imamaki in order to prevent an adhesion of original pattern of an original sheet to a stamp member as taught by Imamaki (column 1 lines 40-42).

Art Unit: 3709

Re claim 9, Nikolaus i.v., Benson and further in view of Imamaki teaches the claimed limitations as discussed above. However, Nikolaus i.v., Benson and further i.v., Imamaki does not recite repeating the steps.

It would have been obvious to one of ordinary skill in the art at the time of the invention to repeat the steps, since reproducing identical steps with the same outcome involves only routine skill in the art. Furthermore, with respect to the desired color, it would have been obvious to use any known color as an obvious matter of design choice as applicant has not provided any criticality for the desired color.

10. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikolaus 6199559 in view of Benson 6360658 and further in view of Badami 5236365. Nikolaus i.v., Benson teaches the claimed limitations as discussed above.

However, Nikolaus i.v., Benson fails to teach the following limitations as taught by Badami: decorating product is made up of pearls in powder or semi fluid form (column 3 lines 48-51).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nikolaus i.v., Benson invention and further in view of Badami in order to provide powder replicas that do not fade, smudge or crack upon exposure to light, heat or handling as taught by Badami (column 1 lines 60-63).

Re claim 11, Nikolaus i.v., Benson and further i.v., Badami teaches the claimed limitations as discussed above. However, Nikolaus i.v., Benson and further i.v., Badami does not recite repeating the steps.

Art Unit: 3709

It would have been obvious to one of ordinary skill in the art at the time of the invention to repeat the steps, since reproducing identical steps with the same outcome involves only routine skill in the art. Furthermore, with respect to the desired color, it would have been obvious to use any known color as an obvious matter of design choice as applicant has not provided any criticality for the desired color.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as per the attached Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin L. Carlos whose telephone number is 571-2703077. The examiner can normally be reached on 7:30am-5:00pm EST Mon-Fri. (alternate Friday off).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-2724828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3709

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AC

09/26/2007


KIMBERLY S. SMITH
PRIMARY EXAMINER
9/26/07